UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
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ATLANTA, GEORGIA 30303-8960

JUN 27 2011

Shelia Holman
Director
Division of Air Quality
North Carolina Department of
Environment and Natural Resources
1641 Mail Service Center
Raleigh, North Carolina 27699-1614

Dear Ms. Holman:

The purpose of this letter is to notify the North Carolina Department of Environment and Natural Resources Division of Air Quality (NC DENR DAQ) that the United States Environmental Protection Agency has reviewed the proposed permit for the Shurtape Technologies, LLC Hickory/Highland Plant located in Catawba County, North Carolina. Based on our review of the proposed title V permit and the supporting information for this facility, EPA formally objects, under authority of section 505(b) of the Clean Air Act (CAA) and 40 C.F.R. § 70.8(c), to the issuance of the title V permit for this facility.

The basis for EPA's objection is that the current permit attempts to establish a plantwide applicability limit (PAL) for greenhouse gases (GHGs) based on an approach that conflicts with EPA's interpretation of the federal prevention of significant deterioration (PSD) regulations (which are incorporated by reference into its North Carolina's regulations). EPA raised its concern to NC DENR DAQ during the 45-day review period for this proposed permit. Specifically, the proposed Shurtape permit includes a GHG PAL based on the facility's carbon dioxide equivalent emissions (CO_2e) and a significance threshold of 75,000 tons per year CO_2e, whereas EPA interprets the federal PSD regulations as authorizing only a GHG PAL based on a facility's mass GHG emissions and a significance threshold of zero tons per year of GHGs.

EPA explained the basis for its regulatory interpretation in detail in a guidance document provided to NC DENR DAQ during the 45-day review and posted on EPA's website at http://www.epa.gov/nsr/ghgdocs/ghgissuepal.pdf. The guidance document NC DENR DAQ subsequently provided to support its establishment of a CO_2e-based PAL in this permit relies on an interpretation that incorrectly applies the regulatory interpretation provided by EPA in its guidance document.[1] While NC DENR DAQ may be able to present an alternative interpretation of the GHG

[1] Compare NC DENR DAQ's *Establishing Plantwide Applicability Limitation for Sources of GHG* (available at http://daq.state.nc.us/permits/memos/PAL_Response.pdf) at 2, which states

> The EPA established the significance value for GHGs as follows, "For the pollutant GHGs ... ''significant'' is defined as 75,000 tpy CO2e instead of applying the value in paragraph (b)(23)(ii) of this section." 75 Fed. Reg. 31606 (June 3, 2010). EPA regulations and the preamble both unambiguously confirm that the values in (b)(23) do not apply. The regulation at (b)(49) states "'significant' is defined as 75,000 tpy CO2e instead of applying the value in paragraph (b)(23)(ii) of this section.

regulations to support the application of a CO_2e-based PAL, two prerequisites must be satisfied. First, NC DENR DAQ must provide an explanation for why its alternative interpretation of the relevant regulations complies with the CAA. Second, NC DENR DAQ must demonstrate that its alternative regulatory interpretation results in air quality protections that are at least as stringent as would be obtained under either a mass-based PAL or the conventional (non-PAL) PSD program for GHG emissions.

EPA is issuing this objection because NC DENR DAQ has neither withdrawn the proposed permit containing the CO_2e-based PAL nor provided an equivalency demonstration necessary to assure that use of a CO_2e-based PAL complies with the Act. To address EPA's objection, NC DENR DAQ may (1) propose a revised permit that utilizes a mass-based PAL consistent with EPA's guidance document, or (2) propose a revised permit that does not include a GHG PAL, or (3) re-propose the current permit with the CO_2e-based PAL accompanied by a revised statement of basis containing the required explanation and equivalency demonstration. We suggest that the revised permit or equivalency demonstration be submitted with sufficient advance notice so that any outstanding issues may be resolved in accordance with section 505(c) of the CAA and 40 C.F.R. section 70.8(c).

A PAL can be a useful tool in implementing PSD requirements, and EPA understands and supports the applicant's desire to obtain a PAL for its GHG emissions. We are committed to working with you to resolve the above issues in a timely manner. Please let us know if we may provide assistance to you or your staff. If you have any questions or wish to discuss this further, please contact Gregg Worley, Chief, Air Permits Section at (404) 562-9141. Should your staff need further assistance, they may also contact James Purvis, North Carolina title V contact at (404) 562-9139.

Sincerely,

Richard A Schuttfor

Beverly H. Banister
Director
Air Pesticides and Toxics
Management Division

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with EPA's *Establishing Plantwide Applicability Limitation for Sources of GHG* (available at http://www.epa.gov/nsr/ghgdocs/ghgissuepal.pdf) at 1, which clearly states:

> Since EPA has not established a specific significant level for GHGs, the significant level for GHG is *any* increase in GHGs (*i.e.*, any emissions rate above 0 TPY on a mass basis). While some people have questioned whether the significant level for GHG is 75,000 TPY of CO_2e, EPA explained in the preamble to the GHG Tailoring Rule that the significance level for GHG is any amount greater than 0 TPY on a mass basis.

See also 75 *Fed. Reg.* 31,514, 31,559 at n. 43 (preamble to the final PSD and Title V Tailoring Rule, which clearly states that EPA did not "establish a significance level for GHG emissions based on CO_2e" but instead established "an applicability criteria for determining whether GHGs are subject to regulation with respect to the particular source") and EPA's guidance at n. 2 (explaining that while "40 CFR 52.21(b)(49)(iii) includes a CO_2e 'significant' level for the purpose of defining whether an emissions increase from a modification is 'subject to regulation'" that use of significant level "applies only under paragraph (b)(49) and does not change the general definition of "significant" in paragraph (b)(23) or as it used in other provisions of 40 CFR 52.21").